

November 24, 2014

Via E-mail: hssframework@cde.ca.gov
California Department of Education &
Instructional Quality Commission
1430 N Street
Sacramento, CA 95814

RE: *History-Social Science Framework for California Public Schools*

Dear Sir / Madame,

I write in my capacity as the Legal Director for the Sikh Coalition, a national Sikh civil rights organization to provide comments on the draft *History-Social Science Framework for California Public Schools*. By way of background, the Sikh Coalition is a community-based organization that defends civil rights and civil liberties in the United States, educates the broader community about Sikhs and diversity, and fosters civic engagement amongst Sikh Americans. The Sikh Coalition owes its existence in large part to the effort to combat uniformed discrimination against Sikh-Americans after the September 11, 2001 terrorist attacks.

In 2009 and 2010 respectively, we were successful in including Sikhism in New Jersey's and Texas' social studies standards. When working with these Boards of Education, we ensured that the references made to Sikhs and the Sikh faith in the curriculum were accurate. In the same vein, we worked closely with the California Sikh community for the past four years toward passage of SB 1540 which mandated revision of the History-Social Science Framework for California Public Schools. Consistent with this effort, we hope to work with the California Department of Education to ensure that any information taught to California public school students about Sikhs is relevant and meaningful in their social studies classes.

I write to request that the *Cheema v. Thompson* legal case be removed from the History-Social Science Framework draft, specifically in Grade 12: Principles of American Democracy, Interpreting the Constitution: The Work of the U.S. Supreme Court (line 2489). This section encourages teachers to use *Cheema v. Thompson*, as well as several other legal cases, to illustrate the tension between individual rights and societal interests.

As discussed in greater detail below, we have grave concerns about inclusion of the case in the draft curriculum. The case concerns the right of Sikh students to wear kirpans in public school. As you may know, the kirpan is a Sikh article of faith resembling a knife. It is the most misunderstood – and often the most controversial – aspect of the Sikh faith. We are troubled that the draft curriculum includes the *Cheema* case without any additional

information contextualizing the kirpan within the Sikh faith. It is now well documented that observant (including initiated) Sikh students are subject to alarmingly disproportionate amounts of bias-based bullying and discrimination in public schools across the country because of their Sikh religious appearance. Given that discussion of the kirpan would place extra scrutiny on observant Sikh public school students, we do not believe it is fair or appropriate to discuss the case without including background information about Sikhism, the Sikh articles of faith, and the significance of the kirpan. In the absence of this contextualizing information, we recommend either deleting the *Cheema* case from the curriculum and/or replacing it with a different legal case.

I. Background on Sikhism, the Kirpan & the *Cheema* Case

Sikhism is the fifth largest world religion, with over 25 million adherents. Sikhism was founded in Punjab, India in 1469 by Guru Nanak, who rejected the caste system and declared all human beings equal. The Sikh religion is monotheistic, believing in one God that is all eternal, all pervading, and all equal. Initiated¹ Sikhs maintain five articles of faith which signify the individual's commitment to Sikhism and to the highest ideals of love and service to humanity. They are an external uniform that unifies and binds Sikhs to the beliefs of the religion, and are a daily reminder that Sikhs must live an honest, moral, kind, brave, and loving life.

The five Sikh articles of faith are: Kesh (maintained hair unshorn and covered with a turban), Kangha (wooden comb), Kara (steel bracelet), Kacha (undergarment), and Kirpan (emblem of justice). After initiation through amrit sanskar, a Sikh must wear all five articles of faith, even though it might result in the loss of property, freedom or life.²

Contrary to the characterization of the kirpan as a knife or sword, the kirpan is a mandatory article of faith that obligates a Sikh to the ideals of generosity, compassion, and service to humanity. It acts as a constant reminder to its bearer of a Sikh's solemn duty to protect the weak and promote justice for all.³ As a matter of practice, a kirpan is kept in a tight sheath and is carried using a gatra, a strap worn across the chest and over the

¹ A formally initiated Sikh is one who has taken amrit sanskar. A Sikh makes an active decision to participate in an amrit sanskar ceremony when s/he is ready to commit themselves to the tenets of the faith. Amrit sanskar is analogous to baptism in Christianity and the bar/bat mitzvah in Judaism.

² Kesh, keeping hair unshorn, distinguishes a Sikh and is regarded as living in harmony with the will of God. Sikhs' unshorn hair is worn covered – for men (and some women) with a turban, signifying sovereignty, dedication, self-respect, courage and piety. (Otherwise, women cover their hair with a scarf.) The Kangha, worn in a Sikh's hair, serves as a constant reminder that a Sikh must remain socially committed and never practice asceticism. (During the social context in which Sikhism arose, matted hair was worn by ascetics who had renounced the world). The Kara is worn to remind a Sikh that he or she is a servant of God and should not take any action that may bring shame or disgrace. The Kacha (also called Kachhehra) is a special, slightly longer type of undershorts that obligates a Sikh to moral restraint and conjugal fidelity.

³ The word "kirpan" comes from two Punjabi words. 'Kirpa' means an act of kindness, a favor; and 'aan' means honor, respect, self-respect.

shoulder or around the waist that enables a kirpan to be suspended at one's waist. There is no prescribed length or sharpness for a kirpan in Sikhism; they are determined by the individual religious convictions of the wearer.

It is unsurprising that the legal issue in the *Cheema* case – whether Sikh children could wear kirpans to school – arose in California, which contains the oldest and largest community of Sikhs in America. In *Cheema*, the U.S. Court of Appeals for the Ninth Circuit affirmed the lower court's accommodation plan which strove to balance school safety with the children's religious rights. The trial court had ordered the school district to lift its wholesale kirpan ban and accommodate the children by allowing them to wear their kirpans to their elementary school so long as the blades were dulled, limited in length, sewn tightly to their sheaths, and worn under the children's clothing so that they were not readily visible.

It is important to note that these limitations on kirpan-wearing Sikhs are not required by all public schools. Indeed, most adult kirpan-wearing Sikhs would balk at the imposition of such limitations by authorities external to the Sikh community.

II. Post 9/11 Bias Against Sikhs & School Bullying

The *Cheema* case was decided in 1995. Six years later, the landscape changed dramatically for observant Sikh-Americans. Sikh-Americans were the victims of hundreds of bias-motivated crimes in the aftermath of the tragic events of September 11, 2001. Sikhs suffered verbal harassment, damage to property, beatings, and even murder. The largest and most brutal attack on the Sikh-American community occurred more recently in 2012 in Oak Creek, Wisconsin when six Sikhs were murdered at their gurdwara by an individual affiliated with neo-Nazi and other white supremacist groups.⁴ Relative to other vulnerable minorities, Sikhs have been disproportionately targeted for discrimination because they wear turbans and keep unshorn hair (including facial hair). Punjabi Sikhs are also vulnerable because of their South Asian ethnicity (i.e., racial appearance). The ongoing discrimination has been largely based on a mistaken perception that Sikhs are affiliated with Al Qaeda or the Taliban.⁵

School children have not escaped the backlash. Sikh students are extremely vulnerable to discrimination and bias-based harassment in public schools. The Sikh Coalition has issued multiple reports documenting the disproportionate level of discrimination and bias-based bullying that Sikh children face in schools. For example, in the Bay Area:

- 69% of surveyed Sikh boys who wear patkas or dastaars (forms of turbans) have been harassed in school; and

⁴ CNN At Service, *Holder Calls Sikh Temple Shooting a Hate Crime* Aug. 20, 2012 available at <http://www.cnn.com/2012/08/10/us/wisconsin-temple-shooting/>.

⁵ Human Rights Watch, *We Are Not The Enemy: Hate Crimes Against Arabs, Muslims, and Those Perceived to be Arab or Muslim after September 11* Vol. 14, No.6(G), p. 14 (Nov. 2002); see also *Leadership Conference on Civil Rights Education Fund, Confronting the New Faces of Hate: Hate Crimes in America* p. 30 (June 2009).

- Two out three surveyed Sikh boys in middle school reported being harassed because of their religion or ethnic identity.

The Sikh Coalition *Bay Area Civil Rights Report* (2010) pgs. 11-19, available online at http://www.sikhcoalition.org/documents/pdf/Bay_Area_Civil_Rights_Agenda.pdf.

In Fresno, CA:

- 67% of surveyed Sikh children experienced bullying or harassment in schools because of their religion, articles of faith, race, national origin and/or because other students believed they look like terrorists; and
- 54% of turbaned Sikh youth have experienced bullying or harassment in schools.

The Sikh Coalition *"Go Home Terrorist" A Report on Bullying Against Sikh American School Children* (2014) pgs. 14-15, available online at <http://issuu.com/thesikhcoalition/docs/go-home-terrorist/3?e=6913675/7070140>.

III. Teaching About Kirpans in a Post 9/11 World

Understanding why Sikhs wear kirpans – and have the right to – is one of cultural competency. It is imperative that public discussions about kirpans include information about Sikhism, its tenets, the five Sikh articles of faith, and the benign intent with which observant Sikhs wear kirpans. We often see the media do a lackluster job of conveying information about and adequately contextualizing kirpans. This normally results in the public's unfortunate negative perceptions of Sikhs and kirpans, the takeaway essentially being that "Sikh wear knives; Sikhs are scary." Even worse, public discussions of kirpans often deteriorate into explicit expressions of xenophobia and bias. For example, the comment section of a news article about a recent kirpan school case similar to the facts in *Cheema* is replete with commentary such as:

- "they[sic] move here they need to accept our laws and language period." – Lynne Mobley
- "only[sic] a violent religion would have a weapon as a religious symbol" – Anne Nameth
- "I guess there is religious freedom for everyone but Christians." – Joanne Griffin Schlicker
- "Live in USA, live by the rules of USA." – Karen Hannegan

Eric Wilkingson, King 5 News *Student Allowed to Bring Religious Knife to Class* October 23, 2014, comments, available online at <http://www.king5.com/story/news/local/2014/10/22/sikh-kirpan-auburn-schools-knives/17746565/>.

Proper contextualization of the kirpan is particularly imperative in public schools (1) given that Sikh children are already subject to disproportionate rates of bias in public schools because of their Sikh appearance and ethnic/racial identity, and (2) given the epidemic of violence (particularly gun violence) in schools over the last two decades. The draft *History–Social Science Framework* as currently written provides no such contextualizing information about the *Cheema* kirpan case. Thus, it is likely that misunderstanding and misconceptions of the kirpan will remain unchecked and burden a community of students who are already under siege because of their religious beliefs.

We realize that, as drafted, the curriculum includes *Cheema* in a lesson about democracy and not one about Sikhism or world religions. Therefore, it does not appear to make sense to include a lesson about Sikhism and its tenets with a discussion of the case. Accordingly, we recommend simply deleting the *Cheema* case from the draft *History–Social Science Framework for California Public Schools*. Alternately, a number of other religious rights legal cases could be substituted for *Cheema*.⁶

Thank you for providing the opportunity to submit this commentary. Please do not hesitate to contact me if you have any questions or concerns about this letter.

Sincerely,

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Encl.

cc: Simran Kaur, Western Region Director, The Sikh Coalition
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⁶ Examples of such cases are: *Gonzalez v. O Centro Espirita Beneficiente Unaio Do Vegetal*, 546 U.S. 418 (2006) (government failed to prove a compelling interest in regulating a religious group's use of controlled substances for religious purposes); *Warsoldier v. Woodford*, 418 F.3d 989 (9th Cir. 2005) (state corrections department's three inch hair limit substantially burdened a Native American's religious practice of maintain unshorn hair and was not the least restrictive means of advancing a compelling government interest, prison security); *Fraternal Order of Police Newark Lodge No. 12 v. City of Newark*, 170 F.3d 359 (3rd. Cir. 1999) (city violated Muslim police officers' free exercise rights because it provided for exemptions to its no-beard rule on medical grounds but not religious ones, and had no compelling reason to do so).